



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 23-mj-1410 SCY

NATHEN RICHARD GARLEY,

Defendant.

ORDER AND NOTICE OF HEARING

The United States has submitted an Emergency Motion To Revoke The Release Order, Issue An Arrest Warrant, And Reconsider Detention. Doc. 12. The Court grants the United States' request for an arrest warrant and sets a hearing to consider the remainder of the United States' motion.

On September 18, 2023, Defendant appeared for a detention hearing. Pretrial Services recommended that Defendant be released to the third-party custody of La Pasada Halfway House. The United States represented that, if a warrant for defendant's arrest (on misdemeanor charges) was cleared up, it would concur with Pretrial Service's recommendation (although it had "some pause" over doing so.)¹ (9/18/23 Hearing Transcript at 10:12 – 10:13). Defendant argued he had insufficient notice of the state court hearing he missed, which is what led to the warrant being issued, and represented that the warrant would be cleared up that same day. (*Id.* at


¹ The United States asserts in its Motion that it "recommended detention, based on the limited information in the criminal complaint and pretrial services report, and Defendant requested release on conditions." Doc. 12 at 2. The Court assumes the government's representation that it "recommended detention" at the September 18 hearing was a typographical error. In explaining that its position at the time of the hearing was based on "limited information", the United States appears to be providing information as to why it took a different position regarding detention at the September 18 hearing than the position it is taking in the present motion.

10:13 – 10:14). The Court then adopted the findings and recommendations contained in the Pretrial Services report and ordered Defendant released to the third-party custody of La Pasada Halfway House. (*Id.* at 10:14 – 10:15; Doc. 10).

In the present motion, the government alleges that Defendant has violated his conditions of release by failing to report a recent arrest. Doc. 12 at 1, 10. As such, under 18 U.S.C. § 3145, it moves for revocation of the Court’s order releasing Defendant to the third-party custody of La Pasada. It further seeks a warrant for Defendant’s arrest. *Id.* at 1. The Court finds the United States’ request for an arrest warrant to be well-taken, hereby issues such a warrant, and orders that the United States Marshals Service file a detainer such that Defendant will be taken into federal custody immediately upon his release from state custody. The Court takes the remainder of the United States’ motion under advisement pending a hearing in this matter.

To allow time for Defendant to be transferred to federal custody so that this matter can be heard, the Court sets a hearing for October 10, 2023 at 9:30 am in the Cimarron courtroom. Should Defendant be released from state custody before October 6, 2023, the United States should advise the Court so that the Court can move up the hearing date.

SO ORDERED.


STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE